

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ASPEX EYEWEAR, INC. and CONTOUR  
OPTIK INC.,

Civil Action No.: 07-cv-5627 (SAS)

Plaintiffs,

V.

OVERLOOK OPTICAL INC.,

Defendant.

**X**

### SCHEDULING ORDER

WHEREAS, the Court issued an Order for Conference in accordance with Fed.R.Civ.P. 16(b) on July 2, 2007 (the "Order"); and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order:

- (1) the date of the conference and the appearances for the parties;

Date: July 27, 2007 at 11:30 a.m.

For Plaintiffs:            Stephen F. Roth and Steven L. Procaccini

For Defendant: **Marc J. Pensabene and Nicole A. Callahan**

- (2) a concise statement of the issues as they appear:

Whether defendants engaged in the unlawful infringement of United States Patent and Trademark Office issued United States Patent No. US RE37,545E (the "'545 Patent"), entitled "Auxiliary Lenses for Eyeglasses," and whether defendant's actions were willful, therefore entitling plaintiffs to an award of substantial statutory damages and attorneys' fees. Whether the '545 Patent is valid and enforceable.

(3) a schedule including:

(a) the names of the persons to be deposed and a schedule of planned depositions:

By Plaintiffs: Jayson Hopper Sr., President, Overlook Optical Inc

By Defendant: Richard Chao, named inventor on the '545 Patent; one or more witnesses, presently unknown, regarding the validity and prosecution of the '545 Patent, and damages.

(b) a schedule for the production of documents:

*Initial Disclosures August 15, 2007*  
Initial document production requests: August 30, 2007.

Initial documents to be produced: September 30, 2007.

(c) dates by which (i) each expert's reports will be supplied to the adverse side and (ii) each expert's deposition will be completed:

For parties with the burden of proof: ~~May 8, 2008.~~ *Dec. 21*

Rebuttals: ~~June 5, 2008.~~ *Jan. 18*

(d) time when discovery is to be completed:

~~April 3, 2007.~~ *Feb 4*

(e) the date by which plaintiff will supply its pre-trial order matters to defendant:

~~August 7, 2008.~~ *Feb 18*

(f) the date by which the parties will submit a pre-trial order in a form conforming with the Court's instructions together with trial briefs and either (1) proposed findings of fact and conclusions of law for a non-jury trial, or (2) proposed voir dire questions and proposed jury instructions, for a jury trial; and

September 10, 2008.

Feb. 28

(g) a space for the date for a final pre-trial conference pursuant to Fed.R.Civ.P. 16(d), to be filled in by the Court at the conference.

Dec. 18 at 4:30 (leave blank)

(4) a statement of any limitations to be placed on discovery, including any protective or confidentiality orders;

If litigation moves forward, and it is expected that confidential documents will be exchanged between the parties, it is anticipated that the parties will reach an agreement regarding any needed protective or confidentiality orders.

(5) a statement of those discovery issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement;

None at this time.

(6) anticipated fields of expert testimony, if any;

By Plaintiffs: infringement and damages.

By Defendant: infringement, validity, enforceability, and damages.

(7) anticipated length of trial and whether to court or jury;


Plaintiffs request: one week jury trial.

Defendant requests: one week jury trial.

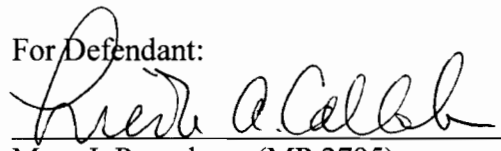
(8) the parties agree that the Scheduling Order may be altered or amended only on a showing of good cause not foreseeable at the time of the conference or when justice so requires;

(9) names, addresses, phone numbers and signatures of all counsel;

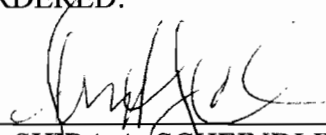
For Plaintiffs:

  
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Steven L. Procaccini (SP 1044)  
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For Defendant:

  
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SO ORDERED:

  
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SHIRA A. SCHEINDLIN  
U.S.D.J. 7/27/07